

testimony is unreservedly applicable. You will proceed, therefore, to its consideration without any fear of violating the law of your duty as jurors, if you apply to it the sound principles of common reason you would not upon your private affairs where high and serious interests were concerned and where you would not act were you not confident of the facts upon which you proceeded.

The question may present itself, how does the proof of other crimes show the prisoner's motives in this transaction? Abstract definitions seldom add in applying legal principles. An illustration serves a better purpose. If one of your number, having bought a note of hand from a traveler apparently respectable, should assign it to a neighbor for value and it turned out to be forged, few would suspect him of crime if this was the only note of the kind he ever passed. If, however, the party who sold him the same paper were on trial and it should be shown that he had sold similar forged papers throughout the neighborhood and others were found in his possession, none would doubt his guilty knowledge in this instance, and the law would justify a jury in acting upon the testimony as plenary proof of that fact. It looks upon him who has committed other and similar crimes, who has turned his back upon the lawful and honest processes of business to procure his livelihood by fraud and lawlessness, as entitled to fewer presumptions in his favor, when he has transferred securities actually false, than one who is leading a life of integrity and uprightness. It is but the common sense rule you are to apply here. The strength and force of its influence in the circumstances is wholly for you. It is measured by no technical and perplexing subtleties, but, as we said in reference to another subject, reason as you would in matters of life, in which you had a deep interest and when you would by no means go forward without caution and consideration.

Very briefly I will now recall an outline of the several frauds the Government claims to have shown:

The Samuel Elliott case is a pretended claim as the guardian of his orphan children. The papers, both original, and for the subsequent payments, who asserted they resided in Monroe, London and McMinn counties; that he repeatedly swore he was their guardian.

If you credit the evidence of the Government that no such appointment was made; if you believe the defendant's own witness, Pettit, that there is none, and that the certificate was fraudulent, then the defendant would be guilty of fraud if he falsely alleged he was guardian, and in that assumed capacity obtained the money his receipts show he has received. That there was no such Samuel Elliott, a member of Bryson's Company; no such children, and that the only Samuel Elliott in the county referred to was produced in court instead of being dead, are only additional evidences of the fraud, otherwise sufficiently shown by the simple proof that he was never guardian of any such children whatever.

In the Susannah Davis claim, the fraud is alleged to consist in putting in two claims for one Susannah Davis as the widow of two deceased soldiers, one by the name of James Davis and the other by the name of James K. Davis.

James Davis is alleged to be a soldier in the 6th Indiana Cavalry.

James K. Davis, in the 9th Pennsylvania Volunteers.

In both claims he avers her residence to be in Monroe county, Tennessee, and that her maiden name was Susannah Raper. In both that she was married at Cherokee county, North Carolina, without naming any particular place; in both they are married by the same minister, the Rev. John Wilson, on the 25th of September, 1860. It appears that Susannah swore to the papers, but she testifies that she made but one claim and did not know that two were being prosecuted. She has repudiated, says, no benefit from the double presentation.

We are aware of no explanation of these applications, false and fraudulent on their face, if they are both, as would appear from the only proof offered to be for the same woman.

The Sarah Hickey case is one which the papers assert she was the widow of Lafayette Hickey, a soldier in Bryson's company, who died in the service. He in fact resided in Georgia. There, too, was his real widow, whose name was Elizabeth and not Sarah, and whom, it is alleged, had no such children as the pension was procured for, and who had no relation with or ever employed Boyd. That the whole action on his part was entirely fictitious and fraudulent. That he made the oaths, the papers, and procured the money without ever knowing even the name of widow for whom he pretended to act. It is in proof that when confronted with the agent of the real Mrs. Hickey he offered to turn over to her the fraudulent and excessive pension that she might in future enjoy the fruits of the fraud if she would thus settle his claims for what he had already received. There is no conflict in the evidence, still you should as in all other cases, consider it carefully to see if it satisfies your minds.

That of George Rose is another case of pretended guardianship, upon which some \$1,300 has been obtained. The papers allege that the children resided in Monroe county. The real George Rose is claimed to have lived in North Carolina, but he was not a member of Bryson's company; is not dead and had no such children. It is claimed there was no George Rose a member of that company and that the insertion of this one and numerous other names in the muster roll was fraudulent. But that is immaterial. If Boyd was not guardian of any children whatever, and the certificates he was so were false and fraudulent, this sustains the criminal charge. The clerk swears he never knowingly issued them, and irrespective of the other falsehoods in these papers, that one is sufficient to constitute them what they are claimed to be—"false claims and vouchers" within the act of Congress.

The evidence of other crimes is properly before you. You will deduct from it such inferences as to Boyd's intent as you feel under the broad rules given you justifies.

If on the whole you think Boyd acted innocently, acquit him. If you think he knew the falsity of the voucher, then, irrespective of the numerous collateral issues, which counsel have so earnestly argued, and him guilty.

The jury were furnished with the voluminous papers used in evidence, and referred for consultation, at 2 o'clock in the afternoon.

noon.—They have not yet returned a verdict, but it is expected they will do so today.

TENTH DAY'S PROCEEDINGS.

Court met yesterday morning at nine o'clock, the hour designated, when shortly after ten the jury having in consideration the case of "The United States vs. Thos. G. Boyd," for making and presenting false accounts against the United States, returned into open court, where the solemn question was asked and answered that has in so many thousand instances caused the cheek to blanch with despair at the dread confirmation of the prisoner's worst fears, or the heart to bound with new life as hope once more resumed its way.

The Court asked—"Gentlemen of the jury, have you agreed upon a verdict?"

The foreman, M. L. Phillips, Esq., replied—"We have."

The Court—"How do you find?"

Foreman—"We find the defendant guilty in manner and form as charged in the third and fourth counts of the indictment."

By the Court—"So say you all?"

To this the jury responded in the affirmative, when they were excused by the court until next Monday morning, they having been so closely occupied during the continuance of the trial.

Boyd became very pale as the verdict was announced, but otherwise betrayed no emotion. During the progress of the trial he has become paler and thinner, which of course is attributable to the strain of mental anxiety to which he has been subjected.

After the jury had retired the regular business of court was proceeded with.

AFTERNOON SESSION.

Col. Thornburgh stated that he represented Messrs. Lenoir and Benson, securities for Thos. G. Boyd to the amount of \$55,000, and asked that only their pro rata amount of costs in the cases pending against Boyd be assessed against them. They had acted in good faith and had been put to heavy expense in securing the prisoner's apprehension and had in addition to pay a standing reward offered for his capture. For this reason he thought they should be taxed as light as possible.

The Court desired to be as liberal with him in this case as was possible, without establishing a dangerous precedent, and recommended that the counsel for the Government take the case of the securities into consideration.

Attorney General Andrews understood that Boyd had paid the expense of the return and arrest as well, and he failed to see with what appearance of justice the securities should be released from costs in the case.

Col. Thornburgh said that such was not the case or he would not make the demand. So far from it, on the contrary Mr. Louis W. Lenoir, who was now demanding his expenses and the reward they had offered for Boyd's capture, which he had effected.

Col. Cooke said that some friends of the prisoner had been approached by young Mr. Lenoir, with that end in view, but beyond drawing up a written instrument he did not know what progress had been made.

The District Attorney and Col. T. then agreed to examine the claims for release of costs and expense of the detective and bring the matter again before the court for adjudication and determination.

SENTENCE DEFERRED.

Judge Emmons then asked the counsel for Mr. Boyd, if they would prefer that sentence should be passed upon the prisoner this afternoon or that it be deferred until the next morning?

Mr. Nelson said that he would prefer the latter as he wished to enter a motion for a new trial, and thought he could show the court an error that had occurred in its construction of the term "claims."

The Court suggested that the term was applicable only in the first and second counts, which were not considered in conducting the case just concluded, however, he would grant the postponement.

The court then proceeded to the transaction of other business, which will be found among the regular proceedings.

ELEVENTH DAY'S PROCEEDINGS.

Immediately after the opening of the court, the defendant, Thos. G. Boyd, was brought in by Deputy Marshal Clinigan. He took his accustomed seat a little in rear of and between his counsel, Messrs. Nelson and Cooke, with whom he at once entered into conversation, speaking in his usually quiet manner, and occasionally smiled while talking. His face was of marble paleness, while his eyes were very bright, and as he looked around the court room, the beholders could not fail to observe the appearance of hollowness in his features, which appeared almost haggard.

After taking his seat Judge Emmons asked the defendant's counsel if they were ready?

Col. Cooke replied that they were, but he wished to know if the submission of his client in the five cases adduced in collateral evidence would be considered a confession of guilt in the other cases pending against him, or would they be disposed of by *non prosequi*?

The Attorney General said that he had no power to do so or even recommend that it be done, the matter being out of his province.

Judge Nelson said that Judge Andrews was correct and he readily understood his position. The court could either overrule the motion for a new trial or he would withdraw it and enter a plea of "guilty" in the five cases alluded to above to be entered of record.

Judge Emmons then overruled the motion of Mr. Nelson for a new trial and stated that if the imprisonment was for one year only or less, the defendant could not be removed from the jail where he was now confined, but in this particular case it would be different. The sentence of the court was then passed, the prisoner being allowed to remain seated while listening to the dread penalty, which reads as follows:

THE SENTENCE.

It is not unusual for courts to accompany their judgments in cases like this with detailed statements of the circumstances of the crime for which punishment is to be inflicted, sometimes associated with reprimands for the past and admonitions for the future. They are frequently intended

more for the public than the prisoner. The usual motive is to attract attention to the fortunate fact that, however cunningly devised, offenses are not committed with impunity; and thus, arrest as far as possible, all who are contemplating crime. No effort to enhance your own appreciation of the magnitude and gravity of your wrongs is necessary. With an intelligence beyond that of the average of your fellow-citizens, it is quite impossible that the turpitude involved in the continuous commission of the numerous frauds, perjuries, forgeries, and corruptions of public officers, so amply exposed by the proof, is not as fully realized by you as by either judge or jury on the bench. Now, if not before, you must feel, with an exceptional force, the anguish, resulting from having brought disgrace upon your hitherto respectable family. It is not that disgrace alone which is inseparable from the criminality of one of its leading and influential members, but by connecting the names of relatives, friends and neighbors frequently, with the instrumentalities of your own crimes, clouds at least resting upon some of them. They are to pass through the ordeal which has not spared you. We will not do you the injustice of supposing it needs a suggestion from us to awaken all the sorrow which even the worst of men must feel for those whom he has subjected to suspicion and public prosecution. If beyond this, they too are guilty it can but add to your regret that you led them into temptation. It is not with an unfeeling desire to increase your despondency now that we refer to these more afflictive consequences of your wrongs, but for a wider purpose. A large audience has witnessed your exciting trial and many are here to listen to your sentence. You will pardon the temporary pain it may cause, if the occasion is improved to ask their earnest attention and lasting remembrance to the lesson which your sad history affords.

You, we know, will authorize us to say that from the first moment you entered upon their commission, these crimes have left you no peace of mind. We should all know this without a confession on your part. It is but an ignorant and vulgar judgment which sees in the bold fictions and desperate resorts which attended your flight, but additional evidences of insensibility and indifference to crime. We read its lesson differently. No man but one suffering from a fear, a continuous arrest and mental pain which he could not endure, would voluntarily attempt the complicated crimes by which you sought to cover your escape.

The corruption of new accomplices, the robbery of the grave, the pretense of assassination and murder, the subornation of false witnesses, the disgusting and repulsive burning of the half decayed body of a negro that your family and friends might follow it to the grave and your poor wife weep over it as that of her dead husband, the mockery of a funeral, the deliberate suggestion on the record of your death that the government might be still further defrauded, constitute an aggregate of repulsive incidents from which every man would shrink if he were not goaded to desperation and suffering in excess. And we beg all who relate the exciting story of your numerous offenses, when the details of those complicated and bold frauds which constitute the foundation of the twenty-seven indictments against you now upon our records, and the still more numerous crimes which an impolitic and unenlightened statute of limitations of twenty-four months places beyond the law's reach, are related, that they in no wise forget to accompany it with the fact that sorrow unmitigated came alike to the leader and his condottors; and that they would, one and all, resign not only what they have dishonestly taken, but all else they have on earth, could they wipe from the slate of the last six years every dishonest act against the Government.

In view of this extraordinary history we have felt embarrassed to justify to the public the seemingly light punishment of five years incarceration in the State Penitentiary and a fine of \$5,000. But it must be remembered that you have been tried and convicted upon one fraud only, and that for this one offense we have gone to the limit of the law. It allows no more. Were you guilty of but one, were the offense exceptional in your history, that would be ample, perhaps, excessive punishment. We look, however, to the other facts—to the five other cases so clearly proved on the trial of this one and in which you plead guilty. This is voluntary on your part. We could not increase our sentence if you refused to do it. We shall not only add nothing to it now on account of those confessions, but see in the act rather a cause for recommending what we cheerfully do: that if the present sentence is submitted and the fine paid; if this circle of bad men who have surrounded you, cease their attempts to promote escapes that the residue of the indictments is not prosecuted against you. We do not go into details in reference to the motives which induce, what to some may seem an unenlightened liberality. Thoroughly convinced ourselves that this measure of mercy at least will be far more beneficial than a greater severity and that in probability when the term of imprisonment is passed there will remain no motive for reproducing before the public the exciting incidents of another trial we unite in the recommendation we have made.

You are sentenced under the indictments upon which you have been convicted to five years incarceration in the State prison at Nashville, the term to be reckoned from the date of this sentence.

In the several cases in which you have pleaded guilty, a fine is imposed of one thousand dollars in each case with imprisonment until it is paid with the costs of prosecution.

ANXIOUS TO LEAVE.

At the conclusion of the sentence Judge Nelson arose and on behalf of the prisoner thanked Judge Emmons for naming Nashville as the place of his confinement, and hoped that he might leave his present quarters as soon as possible.

Judge Emmons replied that he would not sentence a man to imprisonment in the jail mentioned without he had done something worthy of death.

The sentence for imprisonment is the extreme penalty of the law, without fine, and the fine of \$5,000 is only \$1,000 in each case where the defendant pleaded guilty. Regarded as a whole the penalty is considered as extremely lenient and effectually refutes the charge of partiality made

by a few indiscreet and ignorant sympathizers of the prisoner.

DEPARTURE OF THE PRISONER.

On last night Capt. S. P. Evans, accompanied by Deputy Marshals D. M. Boyd and M. A. Walker, left for Nashville, having in charge the prisoner, who will at once enter on his term of servitude.

Boyd was accompanied by his wife and children, who will spend a considerable portion of their time in Nashville so as to be with him during his incarceration.

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